



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT**

**AT KISUMU**

**PETITION NO. 30 OF 2017**

(Before Hon. Justice Mathews N. Nduma)

**PATRICK WANYONYI KHAEMBA.....PETITIONER**

**VERSUS**

**TEACHERS SERVICE COMMISSION.....1<sup>ST</sup> RESPONDENT**

**BOARD OF MANAGEMENT KAPLETINGI**

**MIXED DAY SECONDARY SCHOOL.....2<sup>ND</sup> RESPONDENT**

**FRANCIS TANUL.....3<sup>RD</sup> RESPONDENT**

**R U L I N G**

1. Upon a careful consideration of the application dated 4<sup>th</sup> September 2017, the Replying affidavit by the Respondent and their respective submissions, the court is satisfied that the Petitioner filed constitutional petition being Kisumu ELRC Petition No. 23 of 2013 dated 8<sup>th</sup> October, 2015 raising the same facts and issues for determination as the one raised in the present petition No. 30 of 2017 arising from the petitioner's interdiction by the TSC, the 1<sup>st</sup> applicant. Any new matters needed to be raised by way of amendment but not filing a new suit on same set of facts between the same parties.
2. All the issues raised in the present petition were canvassed in and are pending determination in Kisumu ELRC Petition No. 23 of 2015 which is pending judgment.
3. The rule of subjudice goes to the care of the administration of justice. The court has responsibility to stop abuse of its process by deterring multiplicity of suit which clog the judiciary system. **See Petition No. 548 of 2015, Okiya Omtatah Okoiti & another v Ministry of Transport & infrastructure & 4 others [2016]eKLR.**
4. Accordingly, all pending issues in this petition shall be determined in Kisumu ELRC Petition No. 23 of 2015.
5. The Petition is struck-out for duplicity which is an abuse of the court process with costs.

**Dated and Signed in Kisumu this 20<sup>th</sup> day of September, 2018**

**Mathews N. Nduma**

**Judge**

**Appearances**

Mr. Calvin Anyuor Advocate for Respondents/Applicants

Petitioner/Respondent in person

